



Fire Department Overtime 2nd Follow-Up Audit

Issued by the
Internal Audit Office
June 29, 2010

**City of El Paso
Internal Audit Office
Fire Department Overtime 2nd Follow – Up Audit**

EXECUTIVE SUMMARY

The Internal Audit Office has concluded its fieldwork of the 2nd follow-up audit of the Fire Department Overtime Audit Report dated May 23, 2006. Based on the follow-up audit fieldwork, we have determined the status of pending recommendations for each audit finding as outlined in the table below:

Finding No.	Description of Findings	Status
1	Layering of overtime benefits is occurring due to the complexity of the overtime process as employees may work mandatory, extra board (voluntary overtime) and incidental overtime as well as be eligible to earn incentive or FLSA overtime.	Not Applicable
2	Due to the layering of overtime benefits, the CBA is complex and some of its provisions are vague and may be subject to interpretations, which provide a higher level of overtime benefits than required by the minimum standards set by the Fair Labor Standards Act (FLSA).	Not Applicable
3	There is duplication of effort in the processing of overtime by the Fire Department as two time management systems are being used; FMIS (which includes the FIRNOT and FIRLOG Modules) and KRONOS (City of El Paso's official time management system). In addition, there were six out of 22 (27.2%) instances where overtime was not paid to certain firefighters.	Implemented During 1 st Follow-Up
4	Overtime documentation was not available for 17 out of 22 employees (77.2%) who worked overtime from 2/19/2006 to 3/18/2006. Consequently, overtime authorization could not be verified.	In Progress
5	A review of 22 employees, who worked Extra Board (voluntary overtime) for the month of March 2006, indicated that 13 out of 22 employees (59%) did not have the correct "Date Last Worked" listed. — Twelve were not updated accordingly in the Extra Board list. — One employee did not provide the correct date. — Three employees were not next in line for Extra Board assignment	In Progress
6	There are two classifications of Fire Fighters, 40-hour and 56-hour employees. Overtime pay is computed differently for both using different overtime pay rates and pay codes.	Not Applicable
7	Paid leave such as vacation, sick leave, and holiday leave is considered productive time and is counted as hours worked in the computation of overtime hours.	Not Applicable

For a detailed explanation of the findings and current observations please refer to the appropriate finding contained in the body of this Audit Report.

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BACKGROUND

The Institute of Internal Auditor’s *International Standards for the Professional Practice of Internal Auditing, Standard 2500.A1*, requires a post audit follow-up on all audit recommendations made to ascertain that appropriate action is taken on reported audit findings. The Internal Audit Office has conducted a 2nd follow-up audit of the *Fire Department Overtime Audit Report dated May 23, 2006*.

AUDIT OBJECTIVES

The audit objective was to determine the status of the two (2) pending recommendations found to be “In Progress” during the initial follow-up audit.

SCOPE & METHODOLOGY

This follow-up audit was limited to a review of the pending findings and recommendations detailed in the *Fire Department Overtime Audit Report dated May 23, 2006*. The audit period covered the operations of the Fire Department from February 18, 2010 to the present. Audit fieldwork included interviewing key personnel, reviewing documents, and testing management processes to determine the status of each recommendation.

The audit was conducted in conformance with the *International Standards for the Professional Practice of Internal Auditing* issued by the Institute of Internal Auditors.

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***ORIGINAL FINDINGS, ORIGINAL RECOMMENDATIONS, MANAGEMENT’S
RESPONSE TO ORIGINAL FINDINGS, FIRST FOLLOW-UP OBSERVATION
AND STATUS, CURRENT OBSERVATION AND STATUS***

Based on the results of follow-up test work, each original finding recommendation will be designated with one of the following four status categories:

<i>Implemented</i>	The finding has been addressed by implementing the original corrective action or an alternative corrective action.
<i>In Progress</i>	The corrective action has been initiated but is not complete.
<i>Not Applicable</i>	The recommendation is no longer applicable due to changes in procedures or changes in technology.
<i>Not Implemented</i>	The recommendation was ignored, there were changes in staffing levels, or management has decided to assume the risk.

Original Finding 1

Overtime Layering

Layering of overtime benefits is occurring due to the complexity of the overtime process as employees may work mandatory, extra board (voluntary overtime), incidental overtime, and can be eligible to earn incentive, or FLSA overtime.

Recommendation

Management should analyze the various components of the Collective Bargaining Agreement to determine the most effective and efficient method of overtime use.

Management’s Response

Fire Department’s management acknowledges the layering of overtime and the subsequent adverse effects this has had in regards to overtime. The Fire Chief and the City’s bargaining team are currently addressing these issues in the Collective Bargaining negotiations with the Firefighter’s Association, Local 51.

Responsible Party

Fire Chief Roberto Rivera

Implementation Date

Upon ratification of the Collective Bargaining Agreement.

First Follow-Up Observation

An attempt was made to eliminate some of the overtime layers, but instead additional layers were added. The layering of overtime benefits and the complexity of the overtime process is still present, even more so with the addition of two more incentive pays since the original overtime audit: PAP – paramedic assignment pay and PAP WOC – paramedic working out of class.

Due to the inherent risk of a Collective Bargaining Agreement, management may analyze and recommend methods for overtime use, but once the recommendations are presented during the Collective Bargaining negotiations with the Firefighter’s Association, Local 51, there are no guarantees that they will be accepted and implemented by the “Association.”

First Follow-Up Status

Not Applicable

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Original Finding 2

Collective Bargaining Agreement (CBA)

Due to the layering of overtime benefits the CBA is complex and some of its provisions are vague and may be subject to interpretations, which provide a higher level of overtime benefits than required by the minimum standards set by the Fair Labor Standards Act (FLSA).

Recommendation

Management needs to analyze and compare the CBA overtime provisions to the FLSA standards to determine the minimum requirements prescribed by the FLSA.

Management's Response

Management acknowledges the need to standardize the manner in which overtime is paid. This item is being addressed in the Collective Bargaining Agreement negotiations.

Responsible Party

Fire Chief Roberto Rivera

Implementation Date

Upon ratification of the Collective Bargaining Agreement.

First Follow-Up Observation

The El Paso Fire Department is in compliance with the minimum standards established by FLSA Section 7(k) and has chosen, under the CBA, to provide a higher level of overtime benefits. According to FLSA, "an employer may pay employees on a basis it wishes as long as pay does not fall below minimum standards."

Due to the inherent risk of a Collective Bargaining Agreement, management may analyze and recommend changes to shift schedules and overtime benefits, but once the recommendations are presented during the Collective Bargaining negotiations with the Firefighter's Association, Local 51, there are no guarantees that they will be accepted and implemented by the "Association."

First Follow-Up Status

Not Applicable

Original Finding 3

Overtime Process

There is a duplication of effort in processing overtime by the Fire Department as two payroll processing systems are being used, KRONOS and FMIS. A sample of 22 employees who worked and received overtime pay from 2/19/2006 to 3/18/2006 was reviewed:

- Overtime hours of two out of 22 employees (9%) was not properly coded. Both employees worked Extra Board (voluntary) Overtime (EBP), but it was coded as Regular Overtime (OTP).
 - One employee had 23.75 EBP hours worked on 3/11/2006 but these hours were coded as OTP.
 - Another employee had 23.25 EBP hours worked on 3/11/2006 but these hours were coded OTP.
- Overtime pay for six out of 22 employees (27.2%) was not paid. A review of timecards in KRONOS identified that five employees were transferred to another division to work overtime and paycheck data in PeopleSoft HR shows they were not paid for them.
 - The first employee was transferred to work at the Communications Division for 13.20 hours of OTP and was not paid for them.
 - The second employee was transferred to work at the Emergency Division for 23.75 hours of EBP and was not paid for them.
 - The third employee was transferred to work at the Communications Division for 26 hours of FOT and was not paid for them.
 - The fourth employee was transferred to work at the Communications Division for 26 hours of FOT and was not paid for them.
 - The fifth employee was transferred to work at the Emergency Division for 23.58 hours of EBP and was not paid for them.
 - The sixth employee had 16 hours of overtime (OTP), which was not calculated correctly and was paid \$443.85 instead of \$458.50. A difference of \$14.65.

Recommendation

Management should require that KRONOS be the database of record. Keeping in mind that KRONOS has the ability to update its database via the internet.

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Management's Response

Fire Department Management acknowledges the complexity of the Fire payroll system and the need for a single personnel accountability timecard system. While affirming the value of KRONOS to perform this function, the software does not perform the ancillary functions that FIRLOG performs. An example is the ability to interface with the Computer Aided Dispatch (CAD) software that assigns and tracks resources that respond to 911 emergencies. This interface is important as it definitively logs (as a matter of record), the individuals that were on duty and assigned to that apparatus on that incident. Human Resources is aware of this requirement and is actively working on a solution. The Fire Department has not had the infrastructure to support KRONOS. Plans are being developed to install High-speed intranet (T-1) lines to all 36 fire facilities. Fire Management is also working with its supervisors to accurately and timely enter the required information in the system. The lack of entries or late entries (while due to the dynamics of our operations), may be rectified with diligent tracking and documentation from supervisors. This action will eliminate the need for retroactive reports for pay from our Payroll Section. The Department is already addressing this item.

Responsible Party

Assistant Fire Chief Manuel Chavira

Implementation Date

The Log-ins issue is currently being addressed as supervisors are being reprimanded for lack of entries or incorrect entries. Implemented June 1, 2006.

Human Resources and Information Technology are currently addressing the KRONOS issues.

First Follow-Up Observation

The El Paso Fire Department has implemented the use of TeleStaff, a scheduling software. All staffing data is entered into TeleStaff and is exported to Kronos on a weekly basis. The accuracy of the data transfer was conducted. A review of ten individuals that worked overtime during the period of 11/22/2009 to 12/19/2009 were selected for review with the following results:

- Overtime for ten out of 10 (100%) employees was properly coded and calculated.
- One out of 10 (10%) employees was not paid correctly:
 - A Fire Suppression Technician (40-hour employee) worked Extra Board on three separate occasions for more than six hours each time and was paid travel time for all three overtime occurrences. The Fire Department was notified of the overpayment and processed a retroactive adjustment to the employee's pay. The Fire Department should ensure that corrective measures are taken for the proper payment of travel time.

Status

Implemented

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Original Finding 4

Overtime Documentation and Authorization

Overtime documentation was not available for 17 out of 22 employees (77.2%) who worked overtime from 2/19/2006 to 3/18/2006. Consequently, overtime authorization could not be verified.

Recommendation

Management should monitor and ensure that overtime authorization is documented in accordance with a strong system of internal controls and best practices.

Management's Response

Fire Department Management acknowledges the lack of the approver's name in the FMIS module FIRNOT which documents as a daily log the names, times, and reasons for an individual working on overtime. Much of this overtime was due to incidental reasons such as awaiting relief from the oncoming shift. Details of this nature were shared implicitly with the audit team. The Department has documentation showing the individual's names working the overtime, which is forthright, and thus, the approver's name can be easily deduced through our daily staffing charts. Our discussions with the Audit Team directed our attention to the need to include the approver's name on every incident and are currently being addressed with all supervisors.

Responsible Party

Assistant Fire Chief Steven Surface

Implementation Date

This procedure already exists in our Station Operations Manual in Section 5.7 "Overtime". Supervisors shall be held accountable immediately for incorrect entries or entries that deviate from the established procedure.

First Follow-Up Observation

As of November 22, 2009 the El Paso Fire Department did away with FIRNOT (Fire Notes) and all overtime occurrences are documented and "acknowledged" in TeleStaff. A review of ten individuals with a total of 36 overtime occurrences during the period of 11/22/2009 to 12/19/2009 were selected for review with the following results:

- 24 out of 36 (67%) overtime occurrences were not properly documented and "acknowledged" in TeleStaff.
 - 11 of the overtime occurrences that were identified in Kronos were not entered into TeleStaff; 3 of these overtime occurrences were submitted via e-mail by the employee who worked the overtime.

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- For two (2) of the overtime occurrences, the corresponding overtime entry in TeleStaff was "Last Touched" by the employee who worked the overtime.

It was noted that the overtime occurrences incurred by the 56-hour employees were properly documented and approved. The 56-hour employees have been using TeleStaff longer than the 40-hour employees, whom had transitioned to TeleStaff during the time of our review.

First Follow-Up Status

In Progress

Current Observation

A review of fifteen 40-hour employees with a total of 20 overtime occurrences during the period of 05/09/2010 to 06/05/2010 were selected for review. The 56-hour employees were excluded from the review because it was identified during the original audit that their overtime was being properly documented and approved in TeleStaff. The following are the results of our review:

- Eight out of 20 (40%) overtime occurrences were not properly documented in TeleStaff.
 - Four of the overtime occurrences were identified in Kronos but were not entered into TeleStaff.
 - Two of the overtime occurrences were incorrectly posted to Kronos and were paid in error. Kronos interpreted excess holiday pay hours as overtime and the corresponding employee was paid 18 hours of holiday pay and 18 hours of overtime. A retroactive adjustment in the amount of \$1,201.046 was submitted on 6/28/2010 to correct the overtime overpayment.
- Nine out of 20 (45%) overtime occurrences were not properly "acknowledged" in TeleStaff.
- One out of 20 (5%) overtime occurrences did not post from TeleStaff to Kronos and the employee was not paid for the overtime. Fire Department Payroll was notified of the error and a retroactive payment will be processed for the next pay period.
- For four out of 20 (20%) overtime occurrences, the corresponding overtime entry in TeleStaff was "Last Touched" by the employee who worked the overtime.

Current Status

In Progress

The Internal Audit Office recognizes the fact that the Fire Department is currently working on fully implementing the new TeleStaff System. Until the TeleStaff System is fully implemented, the Fire Department will continue to have the challenges of properly documenting and approving overtime. The Internal Audit Office will not be conducting another follow-up on this finding. The Fire Department will assume the responsibility of completing the implementation of TeleStaff.

Original Finding 5

Extra Board (Voluntary Overtime)

A review of 22 employees who worked Extra Board (voluntary overtime) for the month of March 2006 indicated that 13 out of 22 employees (59%) did not have the correct “Date Last Worked” listed. This was the result of twelve employee’s entries, which were not updated correctly on the Extra Board List, and one employee did not provide the correct date. In addition, three employees (13.6%) were not next in line for Extra Board hiring:

- A lieutenant (LT) from Battalion 3 with a date last worked of 12/21/2005 on the Extra Board List of 3/11/2006, logged in to work Extra Board at Company P23 (Battalion 5). But the Battalion 5 Extra Board List of 3/11/2006 had another LT listed with date last worked of 12/11/2005. The second LT was not called or assigned to work Extra Board.
- A fire suppression technician (FST) from Battalion 3 worked Extra Board on 3/11/2006 (this FST was hired in 1997). It was also noted that Battalion 3 had another FST who had worked Extra Board on 3/11/2006 as well (this FST was hired in 1994). Both FST’s signed up to work Extra Board on 3/12/06 the latter FST was the next in line to be assigned and was not.
- A fire fighter (FF) from the Airport Rescue Fire Fighting Unit (ARFF) worked Extra Board on 3/11/2006. The same FF requested and received Extra Board for 3/12/2006. It was also noted that for this date the Extra Board list for Battalion 3/ARFF had six other FF’s who were first in line for assignment, but were not called or assigned.

Recommendation

Management should consider implementation of an automated system to increase the efficiency and effectiveness of the current Extra Board System, which is currently a manual process. In addition, the Fire Department needs to ensure that employees hired from the Extra Board List are in fact employees who have the oldest “Date Last Worked” in accordance with the contract and Extra Board policies and procedures.

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Management's Response

Fire Department acknowledges the need for an automated system to increase the efficiency and effectiveness of the current Extra Board System. There are programs on the market that address these issues but are cost prohibitive and become less of a priority based on other departmental needs. The program would not drive cost or reduce overtime, but would simply provide a more efficient means to track our hiring procedures.

Responsible Party

Assistant Fire Chief Steven Surface

Implementation Date

Any software upgrades or purchases by the City that may enhance our abilities to automate this procedure will be welcomed.

Chief Internal Auditor's Response

The Fire Department is assuming a risk in not revising its current Extra Board hiring practices. Extra Board is currently being paid at a higher rate than the normal hourly rate, thus increasing their overtime cost. The current practice of hiring from the Extra Board List provides an opportunity to Firefighters to earn wages above their current hourly wage.

The alternative software programs mentioned in the response need to be identified and referred to the Deputy City Manager for Financial and Administrative Services for consideration.

First Follow-Up Observation

The El Paso Fire Department has implemented the use of TeleStaff, but it is not being fully utilized by "line" personnel and the software has not been automated. In addition, the TeleStaff Extra Board Rules for sorting firefighters eligible to work Extra Board have not been updated to reflect the Fire Department's Extra Board Administrative Procedures.

A manual system is still being used to schedule firefighters for Extra Board causing errors in documenting a firefighter's "Date Last Worked." A review of 19 employees with 55 instances of Extra Board overtime during the period of 11/22/2009 to 12/19/2009 was selected for review. 18 out of 55 (33%) Extra Board instances did not have the correct "Date Last Worked" listed on the corresponding Extra Board lists.

First Follow-Up Status

In Progress

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Current Observation

During the first follow-up audit of the El Paso Fire Department it was identified that TeleStaff had been implemented, but that it was not being fully utilized by “line” personnel and that the software had not been automated. TeleStaff still has not been automated but the Fire Department has obtained the assistance and commitment from the Information Technology Department in order to get TeleStaff automated and running properly.

Because TeleStaff is not automated, a manual system continues to be used to schedule firefighters for Extra Board causing errors in documenting a firefighter’s “Date Last Worked.” A review of 19 employees with 50 instances of Extra Board overtime during the period of 05/09/2010 to 06/05/2010 was selected for review using the manual Extra Board lists. 9 out of 50 (18%) Extra Board instances did not have the correct “Date Last Worked” listed on the corresponding Extra Board lists. The 18% error rate is a reduction from the 33% error rate identified during the first follow-up audit.

Current Status

In Progress

The Internal Audit Office recognizes the fact that the Fire Department is currently working on fully implementing the new TeleStaff System. Until the TeleStaff System is fully implemented, the Fire Department will continue to have the challenges of properly managing the Extra Board Overtime process. The Internal Audit Office will not be conducting another follow-up on this finding. The Fire Department will assume the responsibility of completing the implementation of TeleStaff.

Original Finding 6

Fire Fighter Classification

Fire fighters are classified as 56-hour (Emergency Operations) or 40-hour (Emergency Operations or Support) employees depending on their assigned duty. Overtime pay is computed differently using different overtime pay rates and pay codes.

Recommendation

Management should determine whether to use either the 40-hour or 56-hour format as the predominant model.

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Management's Response

Fire Department Management acknowledges this point implicitly and is currently addressing these issues through the Collective Bargaining Agreement negotiations. A single method of payment would be the optimum solution.

Responsible Party

Fire Chief Roberto Rivera

Implementation Date

Upon ratification of the Collective Bargaining Agreement.

First Follow-Up Observation

- The El Paso Fire Department has chosen to use two work periods for firefighters, which is allowable under FLSA. According to FLSA, “An employer may have different work periods for different employees or groups of employees.” In addition, FLSA makes the distinction between firefighters that fall under the FLSA section 7(k) exemption and those that do not, which are differentiated in the CBA by using the titles “56-hour employee” and “40-hour employee.” Because the two types of employees accrue work time and benefits at different rates, different overtime pay rates and pay codes are utilized for tracking purposes.
- According to the Fire Department, a predominant model would be unproductive and not be feasible for the following reasons:
 - The 56-hour firefighters need to be available at all times of the day. FLSA Section 7(k) exception allows firefighters that are engaged in fire protection activities to be on 24 hour shifts. Under this exception, overtime is paid after 53 hours a week.
 - The 40-hour firefighters are support personnel that need to be available during “regular” business operating hours. Most of the support personnel have to deal with businesses or individuals that have normal working hours. The services provided by the 40-hour firefighters are not substantially related to firefighting.
- Due to the inherent risk of a Collective Bargaining Agreement, management may analyze and recommend a predominant model, but once the recommendations are presented during the Collective Bargaining negotiations with the Firefighter’s Association, Local 51, there are no guarantees that they will be accepted and implemented by the “Association.”

First Follow-Up Status

Not Applicable

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Original Finding 7

Leave Hours Used as Productive Time

Paid leave such as vacation, sick leave, and holiday leave is considered productive time and is counted as hours worked in the computation of overtime hours. A sample of 22 employees who worked and received overtime pay from 2/19/2006 to 3/18/2006 was reviewed. Overtime of six out of 22 (27.2%) employees was calculated using holiday taken, vacation, and sick leave as productive or hours worked.

Recommendation

Management should analyze the Collective Bargaining Agreement to determine that any leave, such as vacation, sick leave, and holidays are used in accordance with FLSA minimum requirements.

Management's Response

Fire Department Management acknowledges this point and is currently addressing the issue through the Collective Bargaining Agreement negotiations.

Responsible Party

Fire Chief Roberto Rivera

Implementation Date

Upon ratification of the Collective Bargaining Agreement.

First Follow-Up Observation

Leave hours such as holidays, vacations, sick leave, and holiday leave continue to count as productive time for overtime purposes. "Time not worked" such as leave time, does not have to be included in computing "overtime" pay but is allowed to be considered as "work time" for calculating overtime under FLSA when it is an employer policy or under a collective bargaining agreement.

Due to the inherent risk of a Collective Bargaining Agreement, management may analyze and recommend that any leave not be considered as "productive" time for computing overtime hours, but once the recommendations are presented during the Collective Bargaining negotiations with the Firefighter's Association, Local 51, there are no guarantees that they will be accepted and implemented by the "Association."

First Follow-Up Status

Not Applicable

INHERENT LIMITATIONS

Because of the inherent limitations of internal controls, errors or irregularities may occur and not be detected. Also, projections of any evaluation of the internal control structure to future periods are subject to the risk that procedures may become inadequate due to changes in conditions, or that the degree of compliance with the procedures may deteriorate.

CONCLUSION

Based on the results of this 2nd follow-up audit, we found that of the seven (7) original findings, one (1) has been implemented, two (2) are in progress of being implemented, and four (4) are not applicable due to requirements established within the current Collective Bargaining Agreement. Improvements were identified since the first follow-up audit, but not enough to classify the two (2) pending recommendations as fully implemented. The Internal Audit Office will not be scheduling another follow-up on this audit. The Fire Department has made progress on implementing the TeleStaff System. Based on information acquired by the Internal Audit Office, we feel confident that progress will continue on properly implementing TeleStaff.

We wish to thank the management and staff of the Fire Department for their assistance and numerous courtesies extended during the completion of this follow-up audit.

Signature on File
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Chief Internal Auditor

Signature on File
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